WP(C) 3693/2007

BEFORE

HON'BLE JUSTICE MR I. A. ANSARI

All these writ petitions relate to grant of financial assistance by the State Government to various schools, in the State of Assam, in respect of the financial year 2005-2006 and the learned counsel for the parties concerned agree that in the facts and circumstances of the present case, all these writ petitions can be, and need to be, disposed of at this stage itself. These writ petitions have, therefore, been taken up for final disposal.

Heard Mr. K. Paul, learned counsel for the petitioner in W.P.(C) No. 3275/2007, Mr. A. Sarma, learned counsel for the petitioner in W.P.(C) No. 3280/2007, Mr. D. A. Kayum, learned counsel for the petitioner in W.P.(C) No. 3649/2007 & WP(C) 3650/2007, Mr. J. Ahmed, learned counsel for the petitioner in W.P.(C) No. 3693/2007, Mr. B. B. Gogoi, learned counsel for the petitioner in W.P.(C) No. 96/2007, and Mr. M. H. Choudhury, learned counsel for the petitioner in W.P.(C) 4139/2006 and WP(C) No. 2703/2007. Also heard Mr. M. K. Choudhury, learned Senior counsel, assisted by Mr. M. R. Pathak, learned Standing counsel for the Department of Education, Assam, appearing on behalf of the respondents.

By a letter, dated 12.12.2005, a select-list for providing financial assistance to various schools, in respect of the financial year 2005-2006, was prepared. This was followed by two more orders, passed on 24.02.2006 and 27.02.2006, whereby some other schools were also enlisted as schools, which would be provided financial assistance. Many of those schools, which had not been included in the said select-lists, felt aggrieved and have accordingly come to this Court by making applications under Article 226 of the Constitution of India.

By judgment and order, dated 22.05.2007, passed in WP(C) No. 4822/2006 (Kanaklata Girls M.E. School vs. State of Assam and Ors.) and a batch of other writ petitions, the Court has clarified the criteria and yardstick, which are to be applied for the purpose of making available financial assistance to the educational institutions. The observations made, guidelines issued and the directions given by the judgment and order, dated 22.05.2007, aforementioned have, admittedly, not been challenged and have, thus, attained finality. The present batch of writ petitions, therefore, need to be disposed of in the light of what have been observed and directed by the Court in the judgment and order, dated 22.05.2007, aforementioned.

What is, now, of utmost importance to note is that in none of these writ petitions, any interim direction was passed restraining the State respondents from disbursing the financial assistance nor was any order passed in any other writ petitions putting complete ban on disbursement of financial assistance to schools, which were selected as the schools fit for receiving the financial assistance.

Before any order with regard to the granting of financial assistance could be passed in this batch of writ petitions, the financial assistance to the selected schools have already been disbursed. Since disbursement of the financial assistance to the selected schools is not subject to the outcome of this batch of writ petitions, it is clear that the guidelines issued for providing financial assistance to educational institutions, as given in Kanaklata Girls Schools (supra), will apply to the cases of the present writ petitions in respect of the financial year 2007-2008 and onward.

Considering, therefore, the matter in its entirety and in the interest of justice, it is hereby directed that the cases of these writ petitioners shall be considered by the State respondents, particularly, Commissioner & Secretary, Government of Assam, Education (Elementary) Department, Assam, in the light of the decision rendered in Kanaklata Girls M.E. School vs. State of Assam and Ors. (supra), in respect of the financial year 2007-2008 and onward, whenever the Government decides to extend financial assistance to schools, which are similarly situated as the schools, which have filed these writ petitions. Whatever decision is arrived at by the State respondents, as directed hereinbefore, or whatever orders are passed by the State respondents, as have been directed hereinbefore, shall be communicated, in writing, to the writ petitioners. If any of the writ petitioners feels aggrieved by the decision, which may be taken, or the directions, which

may be passed, the petitioner concerned shall remain at liberty to take recourse to such provisions of law as may be permissible. The petitioners shall furnish to the respondents/authorities concerned a certified copy of this order along with copies of the respective writ petition and annexure thereto.

Furnish a copy of this order to Mr. M. K. Choudhury, learned Standing counsel, Education Department, Assam.

With the above observations and directions, these writ petitions shall stand disposed of.

No order as to costs.